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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,660	07/17/2003	Amanda Marie Worthington		2055
7590	07/25/2005		EXAMINER	
Gary L. Huusko 718 Bridle Ridge Road Eagan, MN 55123				TRUONG, BAO Q
		ART UNIT		PAPER NUMBER
		2875		

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/621,660	WORTHINGTON, AMANDA MARIE
	Examiner Bao Q. Truong	Art Unit 2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 13 May 2005.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-24 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 17 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1)  Notice of References Cited (PTO-892)  
 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4)  Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5)  Notice of Informal Patent Application (PTO-152)  
 6)  Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Chien [US 5,836,671].

Regarding claims 1 and 13, Chien discloses an apparatus for lighting a wearable item [1] having a flexible electroluminescent wire [2], an attaching means, a power source [303], a connecting wire, a control driver including a switch [301], a circuit means [401, 402, 403], the item [1] having an outer portion and a plurality of seams, and the flexible electroluminescent wire [2] being attached to the outer portion of the item [1] (figures 1-6, column 2 lines 49-64, column 3 lines 35-47).

Regarding claims 2 and 14, Chien discloses the circuit means having a function interface [403] (figure 4, column 4 lines 61-67, column 4 lines 1-5).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-10 and 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chien in view of Bryan [US 6,340,235].

Regarding claims 3 and 15, Chien discloses an electrical circuitry for illuminating an electroluminescent wire [2] (figures 4-5). Chien does not disclose the time-out switch.

Bryan discloses a time-out switch [122] for setting a predetermined amount of time for closing of a switch in a circuitry for illuminating an electroluminescent panel (figure 25, column 9 lines 30-47).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use modify the circuitry of Chien by the time-out switch as taught by Bryan to set a predetermined amount of time for closing of a switch for purpose of saving electrical energy.

Regarding claims 4 and 16, Chien discloses an attaching means being glue (column 3 lines 30-31).

Regarding claims 5 and 17, Chien discloses DC/AC converter [401] (figures 4-5, column 3 line 64).

Regarding claims 6 and 18, Chien discloses a dry cell battery (column 3 line 49).

Regarding claims 7 and 19, Bryan discloses a rechargeable battery (column 5 line 36).

Regarding claims 8 and 20, Chien discloses the flexible luminescent wire [2] being attached to the item along the item's seams (figures 1-2).

Regarding claims 9-10 and 21-22, Chien discloses a backpack and a waist pack (column 2 lines 23-24).

5. Claims 11-12 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chien in view of Yei [US 6,116,745].

Regarding claims 11-12 and 23-24, Chien does not disclose the item being a jacket.

Yei discloses a wearable item being a jacket (column 2 lines 25-30).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use replace the wearable item of Chien by a jacket as taught by Yei for purpose of providing an advantageous illumination jacket.

### ***Response to Arguments***

6. Applicant's arguments filed 5/13/2005 have been fully considered but they are not persuasive.

Regarding claims 1 and 13, the applicant argues that Chien document [US 5,836,671] discloses an EL light strip [2] that is neither flexible nor wire. In respond, the examiner cites the EL light strip [2] is flexible (see figure 1); and, in examiner position, the EL light strip [2] is a EL wire, since the applicant does not described in claim any particularly advantage structure of the EL "wire" in order to get over the prior art of record.

Regarding claim 2 and 14, Chien discloses the function interface [403] including means for causing the EL strip to flash or steady (column 3 lines 61-67 and column 4 lines 1-5).

Regarding claims 3-10 and 15-22, the applicant restates and relies the arguments of the independent claims 1 and 13, which have been explained above.

In response to applicant's argument that Bryan [US 6,340,235] is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Bryan and Chien are analogous art because both disclose an illumination bag/handbag using electroluminescent light means.

In view of above, the claims are unpatentable.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bao Q. Truong whose telephone number is (571) 272-2383. The examiner can normally be reached on Monday-Friday (8:00 AM - 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bao Q. Truong  
Examiner  
Art Unit 2875



JOHN ANTHONY WARD  
PRIMARY EXAMINER